

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

UNITED STATES OF AMERICA

v.

DONALD GRIFFIN

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Criminal No. – JFM-08-033

MEMORANDUM

Defendant Donald Griffin has filed a motion for a new trial. The basis for the motion is that his co-defendant, Darrick Fraling, has provided him with an affidavit in which Fraling claims that Griffin had nothing to do with the carjacking involved in this case and that Fraling committed the crime with two other persons (both of whom are unidentified).

Griffin’s motion will be denied. Griffin, of course, knew of Fraling when he went to trial. What he claims he did not know at the time of his trial was that Fraling would say that he was innocent. However, in his plea agreement, Fraling admitted that “[o]fficers approached Fraling and the other men, and all fled. Fraling was arrested as was one accomplice. A third man escaped.” Griffin was arrested on the day in question. Therefore, Fraling, although he did not cooperate with the government, agreed in his plea agreement that Griffin was involved as an “accomplice.”

Griffin’s motion raises a more fundamental question of public policy. Increasingly, pressure is being placed upon inmates to prove to their fellow inmates that they have not cooperated. Likewise, cooperators are retaliated against by fellow inmates. Here, as previously stated, Fraling did not cooperate. However, to grant Griffin’s motion would be to provide defendants with an incentive to obtain - by the exercise of pressure from a co-defendant - an affidavit

declaring the innocence of the defendant procuring the affidavit. Obviously, such an incentive should not be provided. Griffin's trial was more than two and a half years ago. He obviously knew about Fraling, and if he knew that Fraling knew that he was innocent, the responsibility was upon him at the time to produce Fraling as a witness.

A separate order denying Griffin's motion is being entered herewith.

Date: October 31, 2011

/s/
J. Frederick Motz
United States District Judge